

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 06- _____

In Re Samuel K. Lipari,

*

* On Petition for Writ of Mandamus

* to the United States District Court

* for the Western District

Petitioner,

* of Missouri

**PETITION FOR WRIT OF MANDAMUS
PURSUANT TO 28 U.S.C. § 1361**

Comes now the plaintiff Samuel Lipari appearing pro se and makes this Motion For New Trial Over Petition for Writ of Mandamus to the United States District Court for the Western District of Missouri requiring the court to remand *Lipari v. General Electric et al*, W.D. of Mo. Case No. 06-0573-CV-W-FJG of to Missouri State court where the plaintiff's well pleaded complaint was originally filed.

The New Trial is respectfully requested because the trial judge in *Lipari v. General Electric et al*, W.D. of Mo. Case No. 06-0573 did not disclose a fiduciary interest in the action prohibited under 28 U.S.C. § 455(a) and (b)(4) and did not recuse himself *sua sponte* as duty requires. See attached Motion for Recusal. Exb. 1 containing evidentiary attachments 1 and 2.

The plaintiff discovered this conflict of interest on November 7th, 2006.

Respectfully Submitted

Samuel K. Lipari *Pro se*
297 NE Bayview
Lee's Summit, MO 64064
816-365-1306

Certificate of Service

This is to certify that a copy of the foregoing notice was mailed postage pre-paid along with a copy of the Proposed Petition for Writ of Mandamus, this 8th day of November, 2006, to the following:

Hon. Judge Fernando J. Gaitan, Jr., Room 7552, United States District Court
for the Western District of Missouri Charles Evans Whittaker Courthouse
400 East Ninth Street, Kansas City, Missouri 64106

John K. Power, Esq. Husch & Eppenberger, LLC 1700 One
Kansas City Place 1200 Main Street Kansas City, MO
64105-2122

Samuel K. Lipari
297 NE Bayview
Lee's Summit, MO 64064
816-365-1306